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EXAMINER

GUARRIELLO, JOHN J

ART UNIT

PAPER NUMBER

1771

DATE MAILED: 07/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

59/890 923

Applicant(s)

Huter mann

Examiner

John Guarriello

Group Art Unit

1771

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☐ Responsive to communication(s) filed on _____.
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-14 is/are pending in the application.
Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-14 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____.
 - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

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DETAILED ACTION

Claim Rejections - 35 USC § 112

15. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

16. Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, it is not clear what the terms "characterised" in line 2, and the term "contains" mean or encompass. It is the Examiner's position that these terms will be interpreted as **comprising**.

In claim 2, line 4, it is not clear what is encompassed by the terms "suitably", line 3 and "preferably" because these phrases are considered indefinite as to the scope of the claim.

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In claim 3, lines 3 and 4 it is not clear what is encompassed by the terms "suitably" or "preferably" for the same reason given in claim 2.

In claim 4, line 3, it is not clear what is encompassed by the term "preferably" for the same reason given in claim 2. Further, the terms "consist or contain" are not clear since they appear to imply a Markush group and this language is improper. Markush group language is usually expressed as "selected from the group consisting of".

In claim 5, lines 10 and 14, it is not clear what is encompassed by the terms "suitably" or "preferably" for the same reason given in claim 2. Furthermore, line 2, it is not clear what "contains" or "consists of" means because they appear to be improper Markush groups. See the reason given in claim 4.

In claim 8, lines 4 and 7, it is not clear what is encompassed by the terms "suitably" and "preferably" for the same reason given in claim 2.

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In claim 14, it is not clear what is encompassed by the scope of the claim since it is directed to "vehicles, for water, road, or rail or parts thereof". The scope of the claim cannot be determined.

Claim Rejections - 35 USC § 102

17. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4-12, 14 are rejected under 35 U.S.C. 102(b) as being anticipated by EP 630 735.

EP'735 describes a fiber reinforced moulding comprised of a textile sheet in the form of a woven fabric of at least two fiber materials, (column 5, lines 4-24). EP'735 describes the woven fabric is made of a hybrid yarn of

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staple fibers which staple fibers are made from a first material and a second material, (column 3, lines 4-13). EP'735 describes the moulding contains a matrix, which is a resolidified product of plasticized staple fibers from at least one thermoplastic first material. EP'735 describes the moulding contains, embedded in the matrix, aligned staple fibers from at least one second material made of inorganic fibers, (column 5, lines 4-10). EP'735 describes the softening, melting or decomposition temperature (column 3, lines 4-13) of the staple fibers from the second material being higher than the softening, melting or decomposition temperature of the first material, (see materials, column 5, lines 25-58). EP'735 describes the orientation of the fibers of the second material in the matrix corresponding to the orientation of the fibers in the textile sheet. EP'735 describes the process steps, (column 8, lines 9-58). EP'735 describes molding which can be used in the automotive industry, (column 9, lines 53-58; column 10, lines 1-4). It is the Examiner's position that EP'735 describes the essential limitations of the claimed invention.

Claims lack novelty.

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Claim Rejections - 35 USC § 103

18. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

19. Claims 2, 3 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 630 735.

EP'735 as in paragraph # 17 above. EP'735 differs from the claimed invention because it is silent about the length of the staple fibers.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to optimize the length of the staple fibers motivated with the expectation that since the staple fibers of the first material and the second material are described by EP'734 one of ordinary skill would discover the optimum value of the length of the staple fibers since this involves only

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routine skill in this art, see *In re Boesch*, 617F.2d 272, 205 USPQ 215 (CCPA 1980). Regarding the pressure this would be obvious to optimize since EP'735 describes values of pressure which one of ordinary skill in the art would find value routine, (column 9, lines 26-28).

20. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. EP 835 741 describes method of making an article of fiber reinforced material with one or more of staple fibers, (see abstract; column 4, lines 25-58).

21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John J. Guarriello whose telephone number is 703-308-3209. The examiner can normally be reached on Monday to Friday from 8 am to 4 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris, can be reached on (703) 308-2414. The

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fax phone number for the organization where this application or proceeding is assigned is 703-305-5408.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



John J. Guarriello:gj

Patent Examiner

June 23, 2003



TERREL MORRIS
SUPERVISORY PATENT EXAMINER
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